

Before the
Federal Communications Commission
Washington, D.C. 20554

JUN 23 2005

In the Matter of)

Amendment of Section 73.202(b),
FM Table of Allotments,

FM Broadcast Stations.

(Guntown and Booneville, Mississippi)

) MB Docket No. 05-80
) RM-11160
)
)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 22, 2005

Released: June 24, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. Before the Audio Division for consideration is a *Notice of Proposed Rule Making*¹ issued at the request of Clear Channel Broadcasting Licenses, Inc. ("Petitioner"), licensee of Station WBVV(FM),² Channel 257A, Booneville, Mississippi. Petitioner proposes to substitute Channel 257C3 for Channel 257A at Booneville, reallocate Channel 257C3 to Guntown, Mississippi as that community's first local service, and modify the license for Station WBVV to reflect those changes. Petitioner filed comments reiterating its intention to file an application for a construction permit to effectuate the change of channel and community if Channel 257C3 is allotted. No other comments were filed.

2. Petitioner filed its proposal for reallocation in accordance with the provisions of Section 1.420(i) of the Commission's rules, which permits the modification of a station's license to specify a new community of license while not affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment.³ In considering a reallocation proposal, we compare the existing allotment to the proposed allotment to determine whether the reallocation will result in a preferential arrangement of allotments.⁴ Retention of Channel 257A at Booneville would satisfy only the fourth allotment priority of "other public interest matters,"⁴ whereas the proposed substitution of Channel 257C3 for Channel 257A and change of community to Guntown would satisfy the third allotment priority of "first local service."

3. Guntown is an incorporated community with a 2000 U.S. Census population of 1,183 persons with its own local government, and is therefore a community for allotment purposes. The change in

¹ *Guntown and Booneville, Mississippi*, 20 FCC Rcd 4361 (MB 2004) ("Notice").

² At the time that the *Notice* was released, the station was operating under its former call sign WBIP-FM.

³ See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

⁴ Booneville would continue to receive local service from AM Station WBIP and noncommercial educational Station WMAE-FM.

community does not trigger a *Tuck*⁵ analysis because Guntown is not located within any urbanized area, and its proposed 70 dBu will not cover any portion of an urbanized area.⁶ Our engineering analysis shows that Channel 257C3 can be allotted to Guntown, Mississippi in conformity with the technical requirements of the Commission's rules at coordinates located 34-21-42 North Latitude and 88-35-34 West Longitude with a site restriction of 11.1 kilometers (6.9 miles) southeast of the community. Our engineering analysis shows that the loss area of Channel 257A at Booneville contains 14,500 persons and covers 1,008 square kilometers while the gain area of Channel 257C3 at Guntown contains 114,614 persons and covers 3,290 square kilometers. Thus, the upgrade at Guntown will result in a net gain of service to 100,114 persons and 2,282 square kilometers. Both the gain and loss areas will be well-served by at least 5 other full-time aural services.⁷

4. For all the foregoing reasons, we conclude that the public interest would be served by substituting Channel 257C3 for Channel 257A, and reallocating Channel 257C3 to Guntown. This will provide Guntown with its first local service while not depriving Booneville of its sole local service. Therefore, in accordance with the provisions of 47 C.F.R. Section 1.420(i), we will modify the license of Station WBVV, Channel 257A, Booneville, Mississippi to specify operation on Channel 257C3 at Guntown, Mississippi.

5. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. Section 801(a)(1)(A).

6. Accordingly, pursuant to authority contained in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b), and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS ORDERED, That effective August 8, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED for the communities listed below, to read as follows:

| <u>Community</u> | <u>Channel</u> |
|-------------------------|----------------|
| Booneville, Mississippi | --- |
| Guntown, Mississippi | 257C3 |

7. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Clear Channel Broadcasting Licensing, Inc., for Station WBVV, Channel 257A, Booneville, Mississippi, IS MODIFIED to specify operation on Channel 257C3, Guntown, Mississippi, subject to the following conditions:

- a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

⁵ *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

⁶ *See Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (MMB 1995).

⁷ *See LaGrange and Rollingwood, Mississippi*, 10 FCC Rcd 3337 (1995). *See also Family Broadcasting Group*, 53 RR 2d 662 (Rev. Bd. 1983), *rev. denied* FCC 83-559 (Comm. Nov. 29, 1983) (The Commission has considered five or more services to be "abundant.").

- b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

8. Clear Channel Broadcasting Licenses, Inc., licensee of Station WBVV, is required to submit a rule making fee in addition to the fee required for the application to effectuate the changes specified above.

9. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Report and Order to Petitioner's counsel, as follows:

Clear Channel Broadcasting Licensing, Inc.
C/o Mark N. Lipp, Esquire
Vinson & Elkins L.L.P.
1455 Pennsylvania Ave., N.W.
Suite 600
Washington, D.C. 20004-1008

10. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

11. For additional information concerning this proceeding, contact Helen McLean, Media Bureau (202) 418-2738.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau